

AMENDED IN ASSEMBLY JULY 7, 2005

AMENDED IN SENATE MAY 18, 2005

AMENDED IN SENATE MAY 3, 2005

AMENDED IN SENATE APRIL 27, 2005

AMENDED IN SENATE APRIL 7, 2005

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**SENATE BILL**

**No. 570**

**Introduced by Senator Migden**

February 18, 2005

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An act to add Section 68553.5 to the Government Code, and to add Sections 710, 711, 712, 713, and 714 to the Welfare and Institutions Code, relating to minors.

LEGISLATIVE COUNSEL'S DIGEST

SB 570, as amended, Migden. Mentally incompetent minors.

(1) Existing law requires the Judicial Council to perform various duties designed to assist the judiciary.

This bill would require the Judicial Council, to the extent resources are available, to provide education on mental health and developmental disability issues affecting juveniles in delinquency proceedings to judicial officers and other public officers and entities, as specified.

(2) Existing law establishes various criteria for evaluating whether a minor is seriously emotionally disturbed or has a developmental disability.

This bill would authorize the court, in counties that agree to be subject to these provisions pursuant to a resolution adopted by the board of supervisors, as specified, to order a minor who may be a ward of the juvenile court to be referred for evaluation of whether the

minor has a serious mental disorder, is seriously emotionally disturbed, or has a developmental disability either when it appears to the court that the minor may have one of these conditions or upon request of the prosecutor or the minor's counsel. The bill would also require an evaluation ordered by the court to be made by an appropriate and licensed mental health professional with specified credentials, and would require the evaluator to personally examine the minor and submit to the court a written report of his or her findings to guide the court.

The bill would establish dispositional procedures for the court to follow for wards of the court who are determined to be seriously emotionally disturbed, or who have serious mental disorders or developmental disabilities. Those procedures would include referral of the minor to a multidisciplinary team for review, as specified, development and review of a treatment plan by the multidisciplinary team, and a dispositional order by the court, consistent with the protection of the public and the minor's treatment needs identified in the team's report and other specified factors. The bill would make related findings and declarations.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. (a) The Legislature finds and declares all of the  
2 following:  
3 (1) Many of the minors in our state's juvenile justice system  
4 have severe emotional disturbances or developmental disabilities.  
5 (2) There are many different statutes under which a court is  
6 authorized to order evaluation of these minors, and different  
7 funding sources from which payment for an evaluation may be  
8 made.  
9 (3) There is no uniform statewide standard or procedure for  
10 evaluation of these minors. Under the current law, it is difficult to  
11 ensure that these minors' needs are being met.  
12 (b) It is the intent of the Legislature to enact legislation that  
13 will create a unified statutory scheme for the evaluation of  
14 minors in the juvenile justice system who have severe emotional  
15 disturbances or developmental disabilities, so that these minors  
16 may be evaluated prior to disposition and, if the minors are

1 identified as having a disability, placed where they may receive  
2 integrated services and treatment whenever possible.

3 SEC. 2. Section 68553.5 is added to the Government Code, to  
4 read:

5 68553.5. To the extent resources are available, the Judicial  
6 Council shall provide education on mental health and  
7 developmental disability issues affecting juveniles in  
8 delinquency proceedings pursuant to Section 602 of the Welfare  
9 and Institutions Code to judicial officers and, as appropriate, to  
10 other public officers and entities that may be involved in the  
11 arrest, evaluation, prosecution, defense, disposition, and  
12 postdisposition or placement phases of delinquency proceedings.  
13 The education shall include, to the extent possible, using  
14 available resources, information on the early identification of  
15 mental illness or developmental disability in delinquency  
16 proceedings, on statutory and case law providing for the  
17 assessment or evaluation of minors with mental health problems  
18 or developmental disabilities, on specialized adjudication or  
19 disposition procedures, such as mental health courts, that may  
20 apply to these minors, and on appropriate programs, services, and  
21 placements for minors with mental health problems or  
22 developmental disabilities, including information on the benefits  
23 and detriments of placing minors with mental health problems or  
24 developmental disabilities in secure juvenile justice facilities,  
25 such as the Department of the Youth Authority.

26 SEC. 3. Section 710 is added to the Welfare and Institutions  
27 Code, to read:

28 710. (a) Sections 711, 712, and 713 shall not be applicable in  
29 a county unless the application of those sections in the county has  
30 been approved by a resolution adopted by the board of  
31 supervisors. A county may establish a program pursuant to  
32 Sections 711, 712, and 713 on a permanent basis, or it may  
33 establish the program on a limited duration basis for a specific  
34 number of years ~~pursuant to the receipt of a grant from the~~  
35 ~~Mental Health Services Act.~~

36 (b) It is the intent of the Legislature that in a county where  
37 funding exists through the Mental Health Services Act, and the  
38 board of supervisors has adopted a resolution pursuant to  
39 subdivision (a), the courts may, under the guidelines established  
40 in Section 711, make available the evaluation described in

1 Section 712, and receive treatment and placement  
2 recommendations from the multidisciplinary assessment team as  
3 described in Section 713.

4 SEC. 4. Section 711 is added to the Welfare and Institutions  
5 Code, to read:

6 711. (a) When it appears to the court, or upon request of the  
7 prosecutor or counsel for the minor, at any time, that a minor  
8 who is alleged to come within the jurisdiction of the court under  
9 Section 602, may have a serious mental disorder, is seriously  
10 emotionally disturbed, or has a developmental disability, the  
11 court may order that the minor be referred for evaluation, as  
12 described in Section 712.

13 (b) A minor, with the approval of his or her counsel, may  
14 decline the referral for mental health evaluation described in  
15 Section 712 or the multidisciplinary team review described in  
16 Section 713, in which case the matter shall proceed without the  
17 application of Sections 712 and 713, and in accordance with all  
18 other applicable provisions of law.

19 SEC. 5. Section 712 is added to the Welfare and Institutions  
20 Code, to read:

21 712. (a) The evaluation ordered by the court under Section  
22 711 shall be made, in accordance with the provisions of Section  
23 741, by an appropriate and licensed mental health professional  
24 who meets one or more of the following criteria:

25 (1) The person is licensed to practice medicine in the State of  
26 California and is trained and actively engaged in the practice of  
27 psychiatry.

28 (2) The person is licensed as a psychologist under Chapter 6.6  
29 (commencing with Section 2900) of Division 2 of the Business  
30 and Professions Code.

31 (b) The evaluator selected by the court shall personally  
32 examine the minor, conduct appropriate psychological or mental  
33 health screening, assessment, or testing, and prepare and submit  
34 to the court a written report indicating his or her findings and  
35 recommendations to guide the court in determining whether the  
36 minor has a serious mental disorder or is seriously emotionally  
37 disturbed, as described in Section 5600.3, or has a developmental  
38 disability, as defined in Section 4512. If the minor is detained,  
39 the examination shall occur within three court days of the court's  
40 order of referral for evaluation, and the evaluator's report shall be

submitted to the court not later than five court days after the evaluator has personally examined the minor, unless the submission date is extended by the court for good cause shown.

(c) Based on the evaluator's written report, the court shall determine whether the minor has a serious mental disorder or is seriously emotionally disturbed, as described in Section 5600.3, or has a developmental disability, as defined in Section 4512. If the court determines that the minor has a serious mental disorder, is seriously emotionally disturbed, or has a developmental disability, the case shall proceed as described in Section 713. If the court determines that the minor does not have a serious mental disorder, is not seriously emotionally disturbed, or does not have a developmental disability, the matter shall proceed without the application of Section 713 and in accordance with all other applicable provisions of law.

(d) This section shall not be construed to interfere with the legal authority of the juvenile court or of any other public or private agency or individual to refer a minor for mental health evaluation or treatment as provided in Section 370, 635.1, 704, 741, 5150, 5694.7, 5699.2, 5867.5, or 6551 of this code, or in Section 4011.6 of the Penal Code.

SEC. 6. Section 713 is added to the Welfare and Institutions Code, to read:

713. (a) For any minor described in Section 711 who is determined by the court under Section 712 to be seriously emotionally disturbed, have a serious mental disorder, or have a developmental disability, and who is adjudicated a ward of the court under Section 602, the dispositional procedures set forth in this section shall apply.

(b) Prior to the preparation of the social study required under Section 706, 706.5, or 706.6, the minor shall be referred to a multidisciplinary team for dispositional review and recommendation. The multidisciplinary team shall consist of qualified persons who are collectively able to evaluate the minor's full range of treatment needs and may include representatives from local probation, mental health, regional centers, child welfare, education, community-based youth services, and other agencies or service providers. The multidisciplinary team shall include at least one licensed mental

1 health professional as described in subdivision (a) of Section  
2 712.

3 (c) The multidisciplinary team shall review the nature and  
4 circumstances of the case, including the minor's family  
5 circumstances, as well as the minor's relevant tests, evaluations,  
6 records, medical and psychiatric history, and any existing  
7 individual education plan or individual program plans. The  
8 multidisciplinary team shall provide for the involvement of the  
9 minor's available parent, guardian, or primary caretaker in its  
10 review, including any direct participation in multidisciplinary  
11 team proceedings as may be helpful or appropriate for  
12 development of a treatment plan in the case. The team shall  
13 identify the mental health or other treatment services, including  
14 in-home and community-based services that are available and  
15 appropriate for the minor, including services that may be  
16 available to the minor under federal and state programs and  
17 initiatives, such as wraparound service programs. At the  
18 conclusion of its review, the team shall then produce a  
19 recommended disposition and written treatment plan for the  
20 minor, to be appended to, or incorporated into, the probation  
21 social study presented to the court.

22 (d) The court shall review the treatment plan and the  
23 dispositional recommendations prepared by the multidisciplinary  
24 team and shall take them into account when making the  
25 dispositional order in the case. The dispositional order in the case  
26 shall be consistent with the protection of the public and the  
27 primary treatment needs of the minor as identified in the report of  
28 the multidisciplinary team. The minor's disposition order shall  
29 incorporate, to the extent feasible, the treatment plan submitted  
30 by the multidisciplinary team, with any adjustments deemed  
31 appropriate by the court.

32 (e) The dispositional order in the case shall authorize  
33 placement of the minor in the least restrictive setting that is  
34 consistent with the protection of the public and the minor's  
35 treatment needs, and with the treatment plan approved by the  
36 court. The court shall, in making the dispositional order, give  
37 preferential consideration to the return of the minor to the home  
38 of his or her family, guardian, or responsible relative with  
39 appropriate in-home, outpatient, or wraparound services, unless  
40 that action would be, in the reasonable judgment of the court,

1 inconsistent with the need to protect the public or the minor, or  
2 with the minor's treatment needs.

3 SEC. 7. Section 714 is added to the Welfare and Institutions  
4 Code, to read:

5 714. A regional center, as described in Chapter 5  
6 (commencing with Section 4620) of Division 4.5, shall not be  
7 required to provide assessments or services to minors pursuant to  
8 Section 711, 712, or 713 solely on the basis of a finding by the  
9 court under subdivision (c) of Section 712 that the minor is  
10 developmentally disabled. Regional center representatives may,  
11 at their option and on a case-by-case basis, participate in the  
12 multidisciplinary teams described in Section 713. However, any  
13 assessment provided by or through a regional center to a minor  
14 determined by the court to be developmentally disabled under  
15 subdivision (c) of Section 712 shall be provided in accordance  
16 with the provisions and procedures in Chapter 5 (commencing  
17 with Section 4620) of Division 4.5 that relate to regional centers.